

REMARKS

PREVIOUS CITATION OF *HASEBE*

Applicant agrees a second Examiner may cite a reference that was already cited and withdrawn by a first Examiner. However, the MPEP does impose certain requirements. In particular, MPEP 704.01 and MPEP 706.04 require that the second Examiner show that the first Examiner has made a clear error.¹

In the Office Action of March 1, 2004, Examiner Klinger mapped the claimed "origin server" to *Hasebe*'s local unit 200.² In reliance on the Examiner's statement, Applicant amended the claim to recite "an origin server separate from the content server."

In contrast, the present Examiner maps the same "origin server" to *Hasebe*'s exchange device 20.³ Clearly, the present Examiner disagrees with Examiner Klinger on: (1) the significance of the local unit 200; and (2) the insignificance of the exchange device 20.

According to the above-cited sections of the MPEP, the present Examiner is to give full faith and credit to the action of Examiner Klinger. The only exception to this arises when there was a clear error in Examiner Klinger's actions.

The Examiner has thus far failed to explain why it was clear error for Examiner Klinger to have mapped *Hasebe*'s local unit 200 to the claimed "origin server." The Examiner has also failed to explain why it was clear error for Examiner Klinger to have disregarded *Hasebe*'s exchange device 20.

In the interest of establishing a clear record for those who may later examine this file history, Applicant requests that the Examiner articulate precisely why Examiner Klinger's act of

¹ MPEP 704.01 "When an examiner is assigned to act on an application which has received one or more actions by some other examiner, full faith and credit should be given to the search and action of the previous examiner *unless there is a clear error* in the previous action or knowledge of other prior art." [emphasis supplied]

² *First Office Action*, March 1, 2004, see page 5, rejection of claim 9; see also *Hasebe* col. 11, lines 16-23.

³ *Final Office Action*, page 2 "In response, *Hasebe* teaches a client (user terminal 10), an origin server (network exchange device 20) and content servers (Information distribution devices 60a-c).

mapping the local unit **200** to the claimed "origin server" was an error of such clarity as to deny his actions the full faith and credit that they would otherwise deserve.

In addition, and for the same reasons, Applicant requests that the Examiner articulate precisely why Examiner Klinger's act of disregarding the exchange device **20** was likewise an error of such clarity as to deny his actions the full faith and credit that they would otherwise deserve.

SECTION 102 REJECTION

Turning now to the substance of the rejection, Applicant agrees that the network exchange device **20** is separate from the information distribution device **60**. Applicant also agrees that the network exchange device receives a request from the user terminal device **10**. However, Applicant disagrees with the proposition that such a request is in any way a request for "desired content."

Hasebe makes it clear that the various communication network exchange devices, which are numbered as **20, 40A-40C** in FIGS. 7 and 8, are nothing more than routers. Indeed, the Examiner himself has already stated that claim 6's routers corresponded to the communication network exchange devices.⁴

Based on his comments on claim 6 and claim 1, the Examiner appears to regard the *Hasebe* exchange devices as *both* routers *and* origin servers. There is no suggestion in the specification that routers and origin servers are functionally equivalent and interchangeable. In fact, if routers and origin servers were functionally equivalent, it would be difficult to explain why claim 6 recites them as distinct elements with different functions.

As noted above, Applicant agrees that a network exchange device, or router, receives requests from the user terminal device/client. But such requests are hardly requests for "desired

⁴ *Final Office Action*, pages 7-8 "In referring to claim 6, *Hasebe* shows,...

• A first router for relaying messages to said first content server and a second router for relaying messages to said second content server:

"a plurality of communication network exchange devices respectively provided in the information distribution service communication networks, each communication network exchange device having a routing control function for inter-connecting a corresponding information distribution service communication network with other information distribution service communication networks"

- U.S. Patent No. 6,212,570, col. 4, lines 11-18

(A network exchange device with a routing control function is, by definition, a router)"

content." They are simply requests for an IP address. An IP address is not "desired content" An IP address is simply information that leads to desired content.

By way of analogy, in a book, the page numbers lead to "desired content," but they are generally not considered part of the "content" of the book. Page numbers serve only to locate particular content in a book. Indeed, page numbers often change with different editions of the same book, whereas what one regards as "content" does not change, but stays the same from one edition to the next. Similarly, IP addresses, such as those returned by the *Hasebe* exchange devices 20, simply point to web pages that may contain "content." Just like page numbers in a book, an IP address to a web page can change without changing the content of the web page.

It is apparent therefore that *Hasebe* cannot reasonably be regarded as disclosing the origin server as claimed. Accordingly, Applicant requests reconsideration and withdrawal of the section 102 rejection.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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Faustino A. Lichauro
Reg. No. 41,942

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906
21418612.doc